

Senate Bill No. 104

Passed the Senate September 10, 2009

Secretary of the Senate

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 38505 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 104, Oropeza. California Global Warming Solutions Act of 2006: nitrogen trifluoride.

(1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt by January 1, 2011, greenhouse gas emission limits and emission reduction measures to achieve the maximum technological feasible and cost-effective greenhouse gas emission reductions.

The act defines greenhouse gases to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

This bill would also include in that definition nitrogen trifluoride.

Because a violation of the act may be a crime and this bill would expand the scope of the act, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would incorporate changes to Section 38505 of the Health and Safety Code proposed by both this bill and AB 1404, which would become operative only if both bills are enacted and this bill is enacted after AB 1404.

The people of the State of California do enact as follows:

SECTION 1. Section 38505 of the Health and Safety Code is amended to read:

38505. For the purposes of this division, the following terms have the following meanings:

(a) “Allowance” means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

(b) “Alternative compliance mechanism” means an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emission reduction, and that is approved by the state board. “Alternative compliance mechanism” includes, but is not limited to, a flexible compliance schedule, alternative control technology, a process change, or a product substitution.

(c) “Carbon dioxide equivalent” means the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change.

(d) “Cost-effective” or “cost-effectiveness” means the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential.

(e) “Direct emission reduction” means a greenhouse gas emission reduction action made by a greenhouse gas emission source at that source.

(f) “Emissions reduction measure” means programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this division, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.

(g) “Greenhouse gas” or “greenhouse gases” includes all of the following gases:

- (1) Carbon dioxide.
- (2) Methane.
- (3) Nitrous oxide.
- (4) Hydrofluorocarbons.
- (5) Perfluorocarbons.
- (6) Sulfur hexafluoride.
- (7) Nitrogen trifluoride.

(h) “Greenhouse gas emissions limit” means an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the state board, expressed in tons of carbon dioxide equivalents.

(i) “Greenhouse gas emission source” or “source” means any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established under this division will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit.

(j) “Leakage” means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside the state.

(k) “Market-based compliance mechanism” means either of the following:

(1) A system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases.

(2) Greenhouse gas emissions exchanges, banking, credits, and other transactions, governed by rules and protocols established by the state board, that result in the same greenhouse gas emission reduction, over the same time period, as direct compliance with a greenhouse gas emission limit or emission reduction measure adopted by the state board pursuant to this division.

(l) “State board” means the State Air Resources Board.

(m) “Statewide greenhouse gas emissions” means the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, accounting for transmission and distribution line losses, whether the electricity is generated in state or imported. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.

(n) “Statewide greenhouse gas emissions limit” or “statewide emissions limit” means the maximum allowable level of statewide greenhouse gas emissions in 2020, as determined by the state board pursuant to Part 3 (commencing with Section 38550).

SEC. 1.5. Section 38505 of the Health and Safety Code is amended to read:

38505. For the purposes of this division, the following terms have the following meanings:

(a) “Allowance” means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

(b) “Alternative compliance mechanism” means an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emission reduction, and that is approved by the state board. “Alternative compliance mechanism” includes, but is not limited to, a flexible compliance schedule, alternative control technology, a process change, or a product substitution.

(c) “Carbon dioxide equivalent” means the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change.

(d) “Cost-effective” or “cost-effectiveness” means the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential.

(e) “Compliance offset” means a quantified reduction in emissions of greenhouse gases in a sector different from the sector or sectors regulated by a greenhouse gas emission limit for which a market-based compliance mechanism has been adopted by the state board, that is used for compliance of that greenhouse gas emission limit by a greenhouse gas emission source regulated by that limit.

(f) “Direct emission reduction” means a greenhouse gas emission reduction action made by a greenhouse gas emission source at that source.

(g) “Emissions reduction measure” means programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this division, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.

(h) “Greenhouse gas” or “greenhouse gases” includes all of the following gases:

- (1) Carbon dioxide.
- (2) Methane.
- (3) Nitrous oxide.
- (4) Hydrofluorocarbons.
- (5) Perfluorocarbons.

(6) Sulfur hexafluoride.

(7) Nitrogen trifluoride.

(i) “Greenhouse gas emissions limit” means an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the state board, expressed in tons of carbon dioxide equivalents.

(j) “Greenhouse gas emission source” or “source” means any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established under this division will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit.

(k) “Leakage” means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside the state.

(l) “Market-based compliance mechanism” means either of the following:

(1) A system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases.

(2) Greenhouse gas emissions exchanges, banking, credits, and other transactions, governed by rules and protocols established by the state board, that result in the same greenhouse gas emission reduction, over the same time period, as direct compliance with a greenhouse gas emission limit or emission reduction measure adopted by the state board pursuant to this division.

(m) “State board” means the State Air Resources Board.

(n) “Statewide greenhouse gas emissions” means the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, accounting for transmission and distribution line losses, whether the electricity is generated in state or imported. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.

(o) “Statewide greenhouse gas emissions limit” or “statewide emissions limit” means the maximum allowable level of statewide greenhouse gas emissions in 2020, as determined by the state board pursuant to Part 3 (commencing with Section 38550).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 38505 of the Health and Safety Code proposed by both this bill and AB 1404. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 38505 of the Health and Safety Code, and (3) this bill is enacted after AB 1404, in which case Section 1 of this bill shall not become operative.

Approved _____, 2009

Governor